

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL NO. 02-32-01

vs.

CIVIL NO. 04-3906

DAMON CHAPPELLE
aka/ KEVIN JESSUP

FILED

OCT 26 2007

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

" MOTION FOR CLARIFICATION OF SENTENCE "

Now comes the Defendant Damon Chappelle "Pro Se"
requesting the Honorable court to clarify and modify the sentence
imposed for the aforementioned case (No.02-32-01).

RECEIVED
OCT 26 2007

STATEMENT OF FACTS

On September 26, 2001 defendant was arrested for narcotics and a firearm, then taken into state custody. On February 20, 2002 the defendant left state custody on a federal writ and was indicted by the United States Government on the narcotics and firearm, charged on counts 922(g), 924(c), 841(a) and 860(a). Defendant was convicted on all counts and sentenced on September 23, 2002 to a term of 162 months and 6 years supervised release.

On September 25, 2002 defendant was returned back to state custody. Upon arrival defendant served 18 months for parole violations and for being a convicted parole violator from the new criminal conviction in federal court. (See Exhibit-A) Defendant received numerous revocation hearings while confined in state custody. On November 9, 2006 defendant was granted parole to federal detainer. (See Exhibit-B) Subsequently on November 21, 2006 defendants motion to correct sentence under U.S.C. § 2255 (Document No.56) was granted and defendants conviction and sentence was vacated.

Defendant entered a plea agreement with the United States Government in "Good Faith" that a concurrent sentence would be imposed. The District court excepted defendants plea and resented defendant to 95 months to run concurrent with any undischarged term of imprisonment resulting from the revocation of probation in the state court, with time credit from September 23, 2002. The Honorable court resented defendant with the intent that some relief would be awarded to defendant. However, the Pennsylvania Parole Board is not honoring this concurrent sentence imposed by the District Court, and now defendant is being subjected to additional time which would be of no relief, causing defendant to be incarcerated longer than the District Court intended.

On March 2, 2007 the parole board revoked and rescinded defendants parole (See Exhibit-C) based on the courts November 21, 2006 decision to vacate the defendants original conviction and sentence. (See Exhibit-D) The parole board scheduled defendant for another parole hearing based on "new criminal conviction", (See Exhibit-E) when in fact this was not a new conviction but only a change of plea for the same offense. The parole board is interpreting this change of plea as a new conviction.

On June 25, 2007 the parole board recommitted defendant to an additional 36 months for being a convicted parole violator (See Exhibit-F) again for the same action that took place on December 2, 2003. (See Exhibit-A)

Furthermore the parole board has not honored the concurrent sentence imposed by the District court, stopping the defendants state time on September 23, 2002, despite the fact that defendant was actually incarcerated in a state institution from September 23, 2002 until July 18, 2007. A member of the parole board stated that the defendant will not receive credit for the state sentence because he has received credit already for the federal sentence and will not be awarded a concurrent sentence, even though defendant was in the sole custody of the state.

Defendant officially signed out of state custody on July 18, 2007 and was taken into U.S. Marshall custody on July 19, 2007, in which defendant is currently serving the remaining federal sentence. However there is a state detainer lodged against the defendant (See Exhibit-G) when there should not because the defendants maximum state sentence expired on 1-26-2007 (See Exhibit-E). The defendant is not eligible for the drug program, or the good time and pre-release date due to this detainer. (See Exhibit-G)

IN CLOSING

The defendant seeks relief from the Honorable court on the following matter, which is the courts sentence of 95 months to be served concurrent to any on going state sentence that has not been honored by state authorities.

Therefore, defendant now ask that the Honorable court restructure the 95 months sentence to reflect a 37 month sentence with time credit from July 19, 2007. (Date entered B.O.P. to officially begin serving the federal sentence) while the remaining 58 months (September 23, 2002 through July 18, 2007) will reflect the time served on state sentence. This will result in a new judgement of commitment to be issued to both state [i.e. parole board] and federal authorities [B.O.P.] subjecting defendant to the same August 15, 2009 release date. [See Exhibit-G]

Wherefore, defendant prays that the Honorable Court restructure the defendants sentence, and clarify to Pennsylvania parole board on how the federal sentence imposed is to be served.

Thank you for your time
and consideration,

Respectfully Submitted.

DAMON CHAPPELLE
aka/ KEVIN JESSUP
USP Canaan
P.O.Box 300 (unit-B1)
WayMart, Pa. 18472



COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE

1101 S. Front Street
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: KEVIN JESSUP
INSTITUTION: SCI - COAL TOWNSHIP

PAROLE NO: 496AS
INSTITUTION NO: CX8799

AS RECORDED ON DECEMBER 02, 2003 THE BOARD OF PROBATION AND PAROLE RENDERED THE FOLLOWING DECISION IN YOUR CASE:

REFER TO BOARD ACTION OF 05/06/2003 TO RECOMMIT TO A STATE CORRECTIONAL INSTITUTION AS A TECHNICAL PAROLE VIOLATOR AND AS A CONVICTED PAROLE VIOLATOR TO SERVE A TOTAL OF 18 MONTHS BACKTIME.

WHILE CONFINED, YOU MUST COMPLY WITH THE INSTITUTION'S PRESCRIPTIVE PROGRAM REQUIREMENTS AND HAVE NO MISCONDUCTS.
YOU MUST PARTICIPATE IN DRUG AND ALCOHOL COUNSELING.

LIST FOR REPAROLE-REVIEW ON THE NEXT AVAILABLE DOCKET.

IF YOU WISH TO APPEAL THIS DECISION, YOU MUST FILE A REQUEST FOR ADMINISTRATIVE RELIEF WITH THE BOARD WITHIN THIRTY DAYS OF THIS ORDER. THIS REQUEST SHALL SET FORTH SPECIFICALLY THE FACTUAL AND LEGAL BASIS FOR THE ALLEGATIONS. SEE 37 PA CODE SEC. 73. YOU HAVE THE RIGHT TO AN ATTORNEY IN THIS APPEAL AND IN ANY SUBSEQUENT APPEAL TO THE COMMONWEALTH COURT.
[JEM 12/02/2003] DATE MAILED: DEC 08 2003

PAROLE VIOLATION MAX DATE: 02/16/2008

CC: PUBLIC DEFENDER
CC: PUBLIC DEFENDER

CLIENT COPY
KEVIN JESSUP CX8799
ONE KELLEY DRIVE
SHAMOKIN, PA

17872

A handwritten signature in cursive script, appearing to read "C. Myers".

Charles Myers
Acting Board Secretary

EXHIBIT-B



COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE

1101 S. Front Street
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: KEVIN JESSUP
INSTITUTION: SCI - COAL TOWNSHIP

PAROLE NO: 496AS
INSTITUTION NO: CX8799

AS RECORDED ON NOVEMBER 09, 2006 THE BOARD OF PROBATION AND PAROLE RENDERED THE FOLLOWING DECISION IN YOUR CASE:

FOLLOWING AN INTERVIEW WITH YOU AND A REVIEW OF YOUR FILE, AND HAVING CONSIDERED ALL MATTERS REQUIRED PURSUANT TO THE PAROLE ACT, THE BOARD OF PROBATION AND PAROLE, IN THE EXERCISE OF ITS DISCRETION, HAS DETERMINED AT THIS TIME THAT: YOUR BEST INTERESTS JUSTIFY YOU BEING PAROLED/REPAROLED; AND, THE INTERESTS OF THE COMMONWEALTH WILL NOT BE INJURED. THEREFORE, YOU ARE GRANTED PAROLE/REPAROLE AT THIS TIME. THE REASONS FOR THE BOARD'S DECISION INCLUDE THE FOLLOWING:

THE EXISTENCE OF DETAINERS FILED AGAINST YOU.

REPAROLE TO FEDERAL DETAINER SENTENCE. APPROVED HOME TO BE AVAILABLE.

YOU SHALL ABIDE BY THE RULES AND REGULATIONS OF THE INSTITUTION--MANDATORY.

YOU SHALL PAY A MONTHLY SUPERVISION FEE AS DETERMINED BY PAROLE SUPERVISION STAFF TO THE PAROLE BOARD WHILE UNDER SUPERVISION WITHIN THE COMMONWEALTH OF PENNSYLVANIA (ACT 35 OF 1991).

WHEN RELEASED TO THE COMMUNITY YOU MUST REPORT IN PERSON TO THE DISTRICT OFFICE OR SUB OFFICE THE NEXT BUSINESS DAY (MONDAY THROUGH FRIDAY) BETWEEN THE WORKING HOURS OF 8:30 A.M. - 5:00 P.M. THE DECISION ANNOUNCED BY THIS BOARD ACTION (PBPP-15) WILL NOT TAKE AFFECT UNTIL YOU HAVE SIGNED THE CONDITIONS (PBPP-11), AND THE RELEASE ORDERS (PBPP-10) HAVE BEEN ISSUED. YOU REMAIN

(CONTINUE ON PAGE 2)

PAROLE VIOLATION MAX DATE: 02/16/2008

CC: DISTRICT ATTORNEY

CLIENT COPY
KEVIN JESSUP CX8799
SCI - COAL TOWNSHIP
ONE KELLEY DRIVE
COAL TOWNSHIP, PA
17866-1020



COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE

1101 S. Front Street
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: KEVIN JESSUP
INSTITUTION: SCI - COAL TOWNSHIP

PAROLE NO: 496AS
INSTITUTION NO: CX8799

AS RECORDED ON MARCH 02, 2007 THE BOARD OF PROBATION AND PAROLE RENDERED
THE FOLLOWING DECISION IN YOUR CASE:

RESCIND BOARD ACTION OF 5-6-2003, 12-2-2003, 3-5-2004, 9-17-2004, 9-23-2005
AND 11-9-2006; AND NOW:

REAFFIRM BOARD ACTION OF 3-14-2002 TO RECOMMIT TO A STATE CORRECTIONAL
INSTITUTION AS A TECHNICAL PAROLE VIOLATOR TO SERVE 18 MONTHS BACKTIME, WHEN
AVAILABLE.

(U.S. DISTRICT COURT DOCKET #02-32-1)
WTH 03/02/2007

CLIENT COPY
KEVIN JESSUP CX8799
ONE KELLEY DRIVE
COAL TOWNSHIP, PA

A handwritten signature in cursive script, reading "Cynthia L. Daub".

Cynthia L. Daub
Board Secretary



**COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE**

EXHIBIT-D

Office of the Board Secretary
1101 South Front Street, Suite 5300
Harrisburg, PA 17104-2517

DAMON CHAPPELLE, #56079-066
USP CANAAN
U.S. PENITENTIARY
P.O. BOX 300
WAYMART, PA 18472

RE: PA DOC Inmate No. CX-8799 / Parole No. 496-AS

Dear Mr. Chappelle (a/k/a Kevin Jessup):

This is a response to your **administrative appeal** received July 31, 2007 (postmarked 07/27/2007), which objects to the Board decision mailed June 29, 2007. Specifically, you allege that the Board has recommitted for the same offense twice.

The record reflects that you were originally recommitted as a convicted parole violator by decision mailed May 12, 2003. That decision was subsequently rescinded on March 2, 2007 based on the court's November 21, 2006 decision to vacate your original conviction and sentence. Thus, the Board was authorized to now recommit you again as a convicted parole violator based on your subsequent conviction for the offenses indicated.

Accordingly, the Board decision mailed June 29, 2007 is **AFFIRMED**.

By the Board,

A handwritten signature in black ink, appearing to read "Cynthia L. Daub".

Cynthia L. Daub
Board Secretary

DATE MAILED: **OCT 02 2007**

COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE
PBPP - 257NNOTICE OF CHARGES
AND HEARINGS

- ☒ BOARD PAROLE
☒ BOARD REPAROLE
☐ OTHER STATE PAROLE
☐ OTHER STATE PROB

Arrest Report. No. 2 Date of Rpt.

OFFENDER NAME (Last, First, Middle Initial) JESSUP, KEVIN		PAROLE NO. 496AS	SID NO. 21714127	INST. & NO. SCI - Coal Township CX-8799	
COUNTY/STATE OF CONV. PHILADELPHIA	SENTENCE 6YR - 12YR		MINIMUM DATE 01/26/2001	RELEASE DATE 04/09/2001	MAXIMUM DATE 01/26/2007
PRESENT OFFENSE ROBBERY;VUFA				EFF. DATE OF DELINQ. (if applicable) 06/15/2001	

This notice is in reference to your upcoming hearing: (Your rights for this are indicated on the reverse side)

- ☐ Preliminary Hearing
☐ Violation Hearing
☐ Detention Hearing
☒ Revocation Hearing
☐ Probable Cause Hearing
☐ Panel Hearing

CHARGES

You are charged with the following :

PPN: #739970

NEW CRIMINAL CONVICTION:

DATE OF ARREST: 9/16/2001

DATE OF CONVICTION: 11/21/2006

COUNTY AND STATE: PHILADELPHIA, PA

COURT NAME: UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF PENNSYLVANIA

CASE NUMBER: CR. 02-32-01

OFFENSES AND GRADING: POSSESSION WITH INTENT TO DISTRIBUTE "CRACK" COCAINE, POSSESSION WITH INTENT TO DISTRIBUTE "CRACK" COCAINE, FELON IN POSSESSION OF A FIREARM AND AMMUNITION.

SENTENCING: NINETY-FIVE MONTHS (WITH CREDIT FOR TIME SERVED SINCE 2/23/2002, FOUR YEARS SUPERVISED RELEASE TO FOLLOW, \$300.00 IN COURT COSTS AND FEES.

OFFENDER'S SIGNATURE

DATE SIGNED

☐ You are now being charged with the above additional violations which will be heard along with the original charges at your violation and/or revocation hearing. (See reverse side "Notice of Additional Charges").

HEARING DATE AND TIME

PUBLIC DEFENDER :

LOCATION:

DATE : **May 25, 2007**
TIME : **10:45 a.m.**

waived

SCI-Coal Township
One Kelley Drive
Coal Township, PA 17866

AGENT NAME/SIGNATURE/DATE

SUPERVISOR NAME/SIGNATURE/DATE

OFFICE NAME

MARK R. CAREY DDD

03/26/2007

CWD PHILA DIST.

EXHIBIT-F



COMMONWEALTH OF PENNSYLVANIA
BOARD OF PROBATION AND PAROLE

1101 S. Front Street
Harrisburg, Pa. 17104 - 2519

NOTICE OF BOARD DECISION

NAME: KEVIN JESSUP
INSTITUTION: SCI - COAL TOWNSHIP

PAROLE NO: 496AS
INSTITUTION NO: CX8799

AS RECORDED ON JUNE 25, 2007 THE BOARD OF PROBATION AND PAROLE RENDERED THE FOLLOWING DECISION IN YOUR CASE:

REFER TO BOARD ACTION OF 03/14/2002 TO RECOMMIT TO A STATE CORRECTIONAL INSTITUTION AS A TECHNICAL PAROLE VIOLATOR TO SERVE 18 MONTHS BACKTIME, WHEN AVAILABLE, AND NOW;

RECOMMIT TO A STATE CORRECTIONAL INSTITUTION AS A CONVICTED PAROLE VIOLATOR WHEN AVAILABLE TO SERVE 36 MONTHS CONCURRENTLY FOR A TOTAL OF 36 MONTHS BACKTIME.

-- 36 MONTHS FOR THE OFFENSES OF POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE, POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE WITHIN 1000 FEET OF A SCHOOL AND FELON IN POSSESSION OF A FIREARM AND AMMUNITION.
EVIDENCE RELIED ON: CERTIFIED COPY OF COURT RECORD PROVING CONVICTION.
REASON: CONVICTION IN A COURT OF RECORD ESTABLISHED. FIREARM USED IN ORIGINAL OFFENSE AND AGAIN IN PRESENT CASE. PRIOR FIREARMS CASES IN 1993.

WHILE CONFINED, YOU MUST COMPLY WITH THE INSTITUTION'S PRESCRIPTIVE PROGRAM REQUIREMENTS AND HAVE NO MISCONDUCTS.
YOU MUST PARTICIPATE IN DRUG AND ALCOHOL COUNSELING.

IF YOU WISH TO APPEAL THIS DECISION, YOU MUST FILE A REQUEST FOR ADMINISTRATIVE RELIEF WITH THE BOARD WITHIN THIRTY DAYS OF THIS ORDER. THIS REQUEST SHALL SET FORTH SPECIFICALLY THE FACTUAL AND LEGAL BASIS FOR THE ALLEGATIONS. SEE 37 PA CODE SEC. 73. YOU HAVE THE RIGHT TO AN ATTORNEY IN THIS APPEAL AND IN ANY SUBSEQUENT APPEAL TO THE COMMONWEALTH

(CONTINUE ON PAGE 2)

CLIENT COPY
KEVIN JESSUP CX8799
ONE KELLEY DRIVE
COAL TOWNSHIP, PA

17866-1020

CAA1F 540*23 * SENTENCE MONITORING * 09-26-2007
 PAGE 001 * COMPUTATION DATA * 11:50:50
 AS OF 09-26-2007

REGNO...: 56079-066 NAME: CHAPPELLE, DAMON

FBI NO.....: 511135TA5 DATE OF BIRTH: 04-03-1975
 ARS1.....: CAA/A-DES
 UNIT.....: B1 UNIT
 DETAINERS.....: YES
 QUARTERS.....: B02-209U
 NOTIFICATIONS: NO

PRE-RELEASE PREPARATION DATE: 02-15-2009

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
 THE INMATE IS PROJECTED FOR RELEASE: 08-15-2009 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: PENNSYLVANIA, EASTERN DISTRICT
 DOCKET NUMBER.....: CR' 02-32-01
 JUDGE.....: SAVAGE
 DATE SENTENCED/PROBATION IMPOSED: 11-21-2006
 DATE COMMITTED.....: 11-21-2006
 HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
 PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$300.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 381
 OFF/CHG: 21:841(A) (1) POSSESSION WITH INTENT TO DISTRIBUTE "CRACK"
 COCAINE CT 1. 21:860(A) POSSESSION WITH INTENT TO DISTRIBUTE
 "CRACK" COCAINE WITHIN 1000 FEET OF A SCHOOL CT 2.

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
 SENTENCE IMPOSED/TIME TO SERVE.: 95 MONTHS
 TERM OF SUPERVISION.....: 4 YEARS
 RELATIONSHIP OF THIS OBLIGATION
 TO OTHERS FOR THE OFFENDER....: CC OBLG 020
 DATE OF OFFENSE.....: 09-25-2001

G0002 MORE PAGES TO FOLLOW . . .

CAA1F 540*23 *
PAGE 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 09-26-2007

* 09-26-2007
* 11:50:50

REGNO...: 56079-066 NAME: CHAPPELLE, DAMON

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 01-04-2007 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 04-14-2007 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 11-21-2006
TOTAL TERM IN EFFECT.....: 95 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 7 YEARS 11 MONTHS
EARLIEST DATE OF OFFENSE.....: 09-25-2001

JAIL CREDIT.....: FROM DATE THRU DATE
09-23-2002 11-20-2006

TOTAL PRIOR CREDIT TIME.....: 1520
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 372
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 08-15-2009
SIX MONTH /10% DATE.....: N/A
EXPIRATION FULL TERM DATE.....: 08-22-2010

PROJECTED SATISFACTION DATE.....: 08-15-2009
PROJECTED SATISFACTION METHOD....: GCT REL

REMARKS.....: PRIOR CUSTODY CRT AWARDED FROM 9-23-02 PURSUANT TO USSG 5G1.3
(CC)

G0002 MORE PAGES TO FOLLOW . . .

CAA1F 540*23 *
PAGE 003 OF 003 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 09-26-2007

* 09-26-2007
* 11:50:50

REGNO...: 56079-066 NAME: CHAPPELLE, DAMON

----- CURRENT DETAINERS: -----

DETAINER NO...: 001
DATE LODGED...: 07-30-2007
JURISDICTION...: STATE OF PENNSYLVANIA
AUTHORITY.....: PA PAROLE
CHARGES.....: PAROLE VIOLATION

G0000 TRANSACTION SUCCESSFULLY COMPLETED

CAA1F 542*22 *
PAGE 001 OF 001 *

SENTENCE MONITORING
GOOD TIME DATA
AS OF 09-26-2007

* 09-26-2007
* 11:50:59

REGNO...: 56079-066 NAME: CHAPPELLE, DAMON
ARS 1...: CAA A-DES
COMPUTATION NUMBER...: 010
LAST UPDATED: DATE.: 01-04-2007
UNIT.....: B1 UNIT
DATE COMP BEGINS....: 11-21-2006
TOTAL JAIL CREDIT...: 1520
CURRENT REL DT.....: 11-25-2009 WED
PROJ SATISFACT DT...: 08-15-2009 SAT
ACTUAL SATISFACT DT.:
DAYS REMAINING.....:
PLRA
FUNC...: PRT ACT DT:
FACL...: DSC CALC: AUTOMATIC
QUARTERS.....: B02-209U
COMP STATUS.....: COMPLETE
TOTAL INOP TIME.....: 0
EXPIRES FULL TERM DT: 08-22-2010
PROJ SATISF METHOD...: GCT REL
ACTUAL SATISF METHOD:
FINAL PUBLIC LAW DAYS:

-----GOOD CONDUCT TIME AMOUNTS-----

START DATE	STOP DATE	MAX POSSIBLE TO DIS FFT	ACTUAL TOTALS DIS FFT	VESTED AMOUNT	VESTED DATE
09-23-2002	09-22-2003	54 54			
09-23-2003	09-22-2004	54 108			
09-23-2004	09-22-2005	54 162			
09-23-2005	09-22-2006	54 216			
09-23-2006	09-22-2007	54 270			
09-23-2007	09-22-2008	54			
09-23-2008	08-15-2009	48			

TOTAL EARNED AMOUNT.....: 270
TOTAL EARNED AND PROJECTED AMOUNT.....: 372

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED